

Application No.: 09/785,760
Response to OA of 11/07/05

Remarks

In the present response, three claims (4, 15, and 16) are amended. No new matter is entered. Claims 4 – 26 are presented for examination.

I. Claim Rejections: 35 USC § 103

Claims 4 – 26 are rejected under 35 USC § 103 as being unpatentable over USPN 2002/0111892 (Sharp) in view of USPN 6,202,051 (Woolston). This rejection is traversed.

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art cited must teach or suggest all the claim limitations. See M.P.E.P. § 2143. Applicant asserts that the rejection does not satisfy these criteria.

No Suggestion/Motivation to Modify/Combine References

For at least the following reasons, no suggestion or motivation exists to modify or combine Sharp and Woolston.

First, Applicant argues that no teaching or suggestion exists to make the combination because the references are directed to completely different inventions. Sharp is directed to a marketplace for the sale and purchase of freight transportation services ([0005], [0060]). In other words, Sharp is concerned with buying and selling freight shipping services. By contrast, Woolston teaches a network of consignment nodes for the sale and purchase of used and collectible goods (1: 13-18; 2: 27-44). Woolston does not mention or even suggest auctioning or selling services. Again, Woolston is primarily concerned with selling collectables (i.e., goods).

The Examiner must provide *objective evidence*, rather than subjective belief and unknown authority, of the requisite motivation or suggestion to combine or modify the cited references. *In re Lee*, 61 U.S.P.Q.2d. 1430 (Fed. Cir. 2002). Obviousness cannot be established by combining the teachings of the prior art to produce the claimed invention